

01-17-02

PTO/SB/05 (11-00)

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0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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control number**UTILITY PATENT
APPLICATION AND FEE
TRANSMITTAL**

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No. 12653-13**First Inventor** N.P. Van Brunt et al.**Title** OSCILLATORY CHEST COMPRESSION DEVICE**Express Mail Label No.** EL 920536185 US**APPLICATION ELEMENTS**

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original, and a duplicate for fee processing.)
2. ☒ Applicant claims small entity status.
See 37 CFR 1.27
3. ☒ Reissue Specification Total Pages 8
 — Cover sheet
 — Descriptive title of the invention
 — Background of the Invention
 — Brief Summary of the Invention
 — Brief Description of the Drawings (if filed)
 — Detailed Description
 — Claim(s)
 — Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) Total Sheets 3
5. ☒ Declaration in Reissue Application Under 37
CFR 1.175 Total Pages 4
 a. ☐ Unexecuted
 b. ☐ Copy from a prior application (37 C.F.R. 1.63(d))
 (for continuation/divisional with Box 18 completed)
 i. ☐ Deletion of Inventor(s)
 Signed statement attached deleting inventor(s)
 named in the prior application, see 37 C.F.R.
 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
8. ☐ Nucleotide and/or Amino Acid Sequence Submission (if
applicable, all necessary)
 a. ☐ Computer Readable form
 b. Specification Sequence Listing on:
 i. ☐ CD-ROM or CD-R
 (2 copies); or
 ii. ☐ Statements verifying
 identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & documents)
10. ☒ 37 C.F.R. 1.178 Statement
11. ☒ Power of Attorney
12. ☒ Consent of Assignee to Reissue Under 37
C.F.R. 1.172(a)
13. ☐ Information Disclosure ☐ Copies of IDS
Statement (IDS)/PTO-1449 Citations
14. ☒ Amendment in Reissue Application Under 37 CFR
1.173
15. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
16. ☒ Certification of Consent of Assignee to Reissue
Under 37 CFR 3.73(b)

17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No. : .

Prior application information: Examiner: Group Art Unit:

19. CORRESPONDENCE ADDRESS☐ Customer Number or Bar Code Labelor ☒ New correspondence address below

OPPENHEIMER WOLFF & DONNELLY LLP
 2029 Century Park East, Suite 3800
 Los Angeles, California 90067 U.S.A.
 Telephone (310) 788-5000 • Fax (310) 788-5100
 Attn: Michael B. Farber, Esq.

FEE CALCULATION

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c))	119 - 20	99 X	\$ 18.00	\$1782.00
	INDEPENDENT CLAIMS (37 CFR 1.16(b))	12 - 3	9 X	\$ 84.00	\$ 756.00
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))			\$270.00	
				BASIC FEE (37 CFR 1.16(a))	\$ 740.00
				Total of above Calculations =	\$3278.00
	Reduction by 50% for filing by small entity (Note 37 CFR 1.9, 1.27, 1.28)				1639.00
				TOTAL =	\$1639.00

6. ☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 16-2230:


- a. ☒ Fees required under 37 CFR 1.16.
b. ☒ Fees required under 37 CFR 1.17.
c. ☐ Fees required under 37 CFR 1.18.

A check in the amount of \$1,639.00 is enclosed. (Check No. 024517)

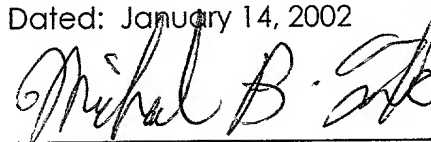
Accordingly, issuance of the official Filing Receipt an early date is in order and is respectfully requested.

Express Mailing Label No. EL 920536185 US

I hereby certify that on January 14, 2002, I am depositing this correspondence and all listed attachments with the United States Postal Service "Express Mail Post Office to Addressee," service under 37 C.F.R. § 1.10, addressed to Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.


Joyce A. Johnson

Dated: January 14, 2002



Michael B. Farber
Registration No. 32,612

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2029 Century Park East, 38th Floor
Los Angeles, California 90067-3024
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: N.P. Van Brunt et al. **Examiner:** D. D. DeMille
Serial No.: To Be Assigned **Group Art Unit:** 3733
Filed: Herewith **Docket:** 12653-13
Due Date: N/A **Date Mailed:** January 14, 2002
Reissue of: U.S. Patent No. 6,036,662
Title: OSCILLATORY CHEST COMPRESSION DEVICE

**STATEMENT OF LITIGATION INVOLVING THE PATENT TO BE REISSUED
UNDER 37 C.F.R. § 1.178**

Honorable Commissioner for Patents
Washington, D.C. 20231

Gentlemen:

Pursuant to 37 C.F.R. § 1.178, the undersigned hereby informs the Patent and Trademark Office that the above-identified patent is involved in litigation, and provides details of that litigation.

Specifically, the above-identified patent is the subject of American Biosystems, Inc. v. Electromed, Inc., Case No. 00-2646 DWF/SRN, in the United States District Court for the District of Minnesota.

The following pleadings in this action are enclosed:

Exhibit 1 is a Complaint for Patent Infringement, filed by Plaintiff.

Exhibit 2 is an Answer to Complaint and Counterclaim, filed by Defendant.

Exhibit 3 is a Reply to Counterclaim, filed by Plaintiff.

Exhibit 4 is a Joint Rule 26(f) Report, filed jointly by Plaintiff and Defendant.

Exhibit 5 is Plaintiff American Biosystems, Inc.'s Notice of Motion and Motion to Amend Complaint.

Exhibit 6 is Plaintiff American Biosystems' Memorandum in Support of Motion to Amend the Complaint.

Exhibit 7 is Affidavit of David J. McKinley, filed by Plaintiff, with Exhibits 1-9, attached thereto.

Exhibit 8 is a Proposed Order for Leave to Amend Complaint, filed by Plaintiff.

Exhibit 9 is Defendant Electromed, Inc.'s Memorandum in Opposition to Plaintiff American Biosystems' Motion to Amend the Complaint.

Exhibit 10 is Defendant Electromed, Inc.'s Notice of Motion and Motion for Settlement Conference and Postponement of Motion to Amend Complaint.

Exhibit 11 is Defendant Electromed, Inc.'s Memorandum in Support of Motion for Settlement Conference and Postponement of Motion to Amend Complaint.

Exhibit 12 is Affidavit of R. John Bartz, filed by Defendant, with Exhibits 1-4, attached thereto.

Exhibit 13 is a Proposed Order, filed by Defendant.

Exhibit 14 is an Order of the United States District Court, District of Minnesota.

Exhibit 15 is Amended Complaint for Patent Infringement, filed by Plaintiff.

Exhibit 16 is Answer to Amended Complaint and Counterclaim, filed by Defendant.

Exhibit 17 is Reply to Amended Counterclaims, filed by Plaintiff.

Exhibit 18 is Stipulation and Order to Modify the February 22, 2001 Pretrial Scheduling Order, filed jointly by Plaintiff and Defendant.

The undersigned would like to bring to the attention of the United States Patent and Trademark Office the following United States patents which are referenced in one or more of the above-identified pleadings and are included in an Information Disclosure Statement to be subsequently filed in this reissue application:

- (1) U.S. Patent No. 1,898,652 to Williams, issued February 21, 1933.
- (2) U.S. Patent No. 2,263,844 to Hammond, issued November 25, 1941.
- (3) U.S. Patent No. 2,588,192 to Akerman et al., issued March 4, 1952.
- (4) U.S. Patent No. 2,780,222 to Polzin et al., issued February 5, 1957.
- (5) U.S. Patent No. 4,838,263 to Warwick et al., issued June 13, 1989.
- (6) U.S. Patent No. 5,769,797 to Van Brunt et al., issued June 23, 1998.

The recitation of these patents does not constitute an admission that any or all of these patents are necessarily prior art.

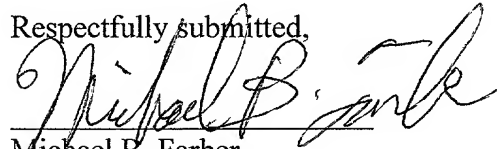
The undersigned would further like to bring to the attention of the United States Patent and Trademark Office the following foreign patents which are referenced in one or more of the above-identified pleadings and are included in an Information Disclosure Statement to be subsequently filed in this reissue application:

- (1) French Patent No. 2,556,213 to Durocher et al., published June 14, 1985.

The recitation of this patent does not constitute an admission that it is necessarily prior art.

Dated: January 14, 2002

Respectfully submitted,



Michael B. Farber

Registration No. 32,612

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Due Date: N/A **Date Mailed:** January 14, 2002
Reissue of: U.S. Patent No. 6,036,662
Title: OSCILLATORY CHEST COMPRESSION DEVICE

CERTIFICATE UNDER 37 CFR 1.10: I hereby certify that this correspondence and identified enclosures are being deposited with the United States Postal Service, Express Mail Post Office to Addressee, postage prepaid, under 37 C.F.R. 1.10 on the date indicated, and is addressed to: Box Reissue, Commissioner for Patents, Washington, D.C. 20231 on January 14, 2002.

By: 

Name: Joy Johnson

COMMUNICATION

Honorable Commissioner for Patents
Washington, D.C. 20231

Gentlemen:

This Communication accompanies an application for reissue of the above-identified patent application.

This reissue is a broadening reissue, and is filed within two years of the issuance of the patent pursuant to 35 U.S.C. § 251.

The patentee offers to surrender the original ribbon copy of the patent at such time when the reissue application is allowed or will become allowed.

This reissue application includes:

(1) A copy of the specification and drawings of the above-identified patent as issued. Applicant respectfully submits that the clean copy of the drawings submitted complies with 37 C.F.R. § 1.84 and that no further drawings are required.

(2) An Amendment in Reissue Application Under 37 C.F.R. § 1.173 amending the specification, amending claim 1, and adding new claims 13-119.

(3) A Consent of Assignee to Reissue Under 37 C.F.R. § 1.172(a) and Certification Under 37 C.F.R. § 3.73(b).

(4) A Declaration in Reissue Application Under 37 C.F.R. § 1.175.


(5) A Power of Attorney.

(6) A Statement of Litigation Involving the Patent to Be Reissued Under 37 C.F.R. § 1.178.

An Information Disclosure Statement will be filed subsequently.

Prompt consideration of these documents and allowance of the reissue application are respectfully requested.

Respectfully submitted,



Michael B. Farber
Registration No. 32,612

Dated: January 14, 2001

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